

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

|                                |   |                       |
|--------------------------------|---|-----------------------|
| In re:                         | ) |                       |
|                                | ) |                       |
| VERTEX FAB & DESIGN, LLC       | ) | CHAPTER 7             |
|                                | ) | CASE NO. 15-11803-JNF |
| Debtor.                        | ) |                       |
|                                | ) |                       |
| DONALD R. LASSMAN, CHAPTER 7   | ) | ADVERSARY PROCEEDING  |
| TRUSTEE OF THE ESTATE OF       | ) | NO. 16-01141-JNF      |
| VERTEX FAB & DESIGN, LLC,      | ) |                       |
|                                | ) |                       |
| v.                             | ) |                       |
|                                | ) |                       |
| VERTEX RAILCAR CORPORATION,    | ) |                       |
| VERTEX RAIL TECHNOLOGIES, LLC, | ) |                       |
| and DONALD G. CROTEAU          | ) |                       |
| Defendants.                    | ) |                       |
|                                | ) |                       |

**ASSENTED-TO MOTION TO EXTEND DISCOVERY PLAN DEADLINES**

Pursuant to Fed. R. Civ. P. 26(f), as made applicable to this proceeding by Fed. R. Bankr. P. 7026, this Court’s Scheduling Order dated October 18, 2016, and the Parties’ joint discovery plan filed with this Court on December 5, 2016 (the “Joint Discovery Plan”), the Parties present this second agreed-to extension of the dates set forth in Joint Discovery Plan for the Court’s consideration and approval in connection with the above-captioned matter. Through this request, the Parties seek to extend by sixty (60) days the dates in the Joint Discovery Plan.

On March 28, 2017, the Parties jointly requested an extension to the dates in the Joint Discovery Plan (Docket No. 23) because, before that date, they had been engaged in substantive settlement discussions and had agreed to hold off on discovery activity during those discussions. The Court allowed the Parties’ request through an Order dated March 29, 2017 (Docket No. 24). Since that date, the Parties have engaged in substantive discovery efforts, including exchanging

written discovery requests and written responses to those requests. The Parties also have begun to exchange responsive documents, and, as of this date, continue to coordinate regarding the production of a voluminous amount of the Debtor's electronic documents.

Despite their progress on discovery to date, the Parties agree that they will need an additional sixty (60) days beyond the current July 19, 2017 discovery deadline to complete their production and review of documents in this matter and to schedule and complete all depositions of witnesses and parties, many of whom reside out-of-state. The Parties therefore request that the Court enter an order allowing the Parties' request to amend the dates in the Joint Discovery Plan and set the following deadlines for this action:

**A. Joint Proposed Discovery and Pre-Trial Schedule**

- (a) Deadline for the completion of all party and non-party fact discovery: September 19, 2017;
- (b) Deadlines for Expert Reports and Depositions (if any):
  - (i) For the Plaintiff's Expert Report: November 17, 2017;
  - (ii) For the Defendant's Expert Report: January 15, 2018;
  - (iii) All expert depositions must be noticed and completed by March 2, 2018;
- (c) Summary Judgment: Any summary judgment motions to be filed by May 1, 2018;
- (d) Joint Pretrial Memorandum. The date for filing a Joint Pretrial Memorandum shall be set by the Court after decision on any summary judgment motions. If no summary judgment motions are filed by May 1, 2018, then the parties request that the Court issue an order setting a date for submission of a pre-trial memorandum at that time. The Joint Pretrial Memorandum shall include those subject matters identified in paragraph 5 of the Court's October 18, 2016 Scheduling Order.

Respectfully submitted,

**DONALD R. LASSMAN, CHAPTER 7  
TRUSTEE OF THE ESTATE OF VERTEX  
FAB AND DESIGN, LLC**

**By his attorneys,**

/s/ Michael P. Connolly  
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**VERTEX RAILCAR CORPORATION**

**By its attorneys,**

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**VERTEX RAIL TECHNOLOGIES, LLC  
and DONALD G. CROTEAU**

**By their attorneys,**

/s/ Michael J. Fencer  
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Date: June 13, 2017

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**CERTIFICATE OF SERVICE**

I, Michael P. Connolly, do hereby certify that on the 13<sup>th</sup> day of June, 2017, I served a copy of the within *Assented to Motion to Extend Discovery Plan Deadlines* through the ECF system, which will send the document electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Michael P. Connolly  
Michael P. Connolly